

TIPP CITY COUNCIL STUDY SESSION

TIPP CITY, MIAMI COUNTY, OHIO

MAY 21, 2007

Study Session

Mr. Collinsworth opened the Study Session at 7:00 p.m. on this date.

Roll Call

Council Members in attendance included: President William D. Beagle, Vickie K. Blakey, Rick Mains, Jr., Tim Evans, Mayor George H. Lovett, Donald H. Ochs, and Patrick Hale.

Others in attendance included: Police Chief Tom Davidson and Acting Clerk of Council Cathy Ross.

**Discussion -
LiveScan Fingerprint
ID System**

Chief Davidson stated that this purchase was included in the 2007 CIP budget and would replace manual fingerprinting. Sergeant Mauro researched and solicited proposals for fingerprinting and mug shot equipment. The Cogent system is being recommended for purchase as it is compatible with FBI, BCI (Bureau of Criminal Investigation) and the Dayton Crime Lab. It complies with FBI and state requirements and is the same that the BCI uses.

Mrs. Blakey asked if the price included maintenance. Chief Davidson stated he believed it covered 1 year maintenance and the other would depend on the level of maintenance purchased.

This system costs \$42,000 and is available on the State Bid Cooperative Purchasing Program. Chief Davidson stated that he has talked with other departments who have used this system for 4-5 years without much trouble. Every police officer will be trained as part of the purchase price.

Adjournment

The meeting adjourned at 7:25 p.m.

William D. Beagle, President of Council

Attest: _____
Cathy Ross, Acting Clerk of Council

TIPP CITY COUNCIL MEETING

TIPP CITY, MIAMI COUNTY, OHIO

MAY 21, 2007

Meeting

President Beagle called to order the regular meeting of the Tipp City Council at 7:30 p.m. Roll call showed the following Council Members present: President William Beagle, Vickie K. Blakey, Donald H. Ochs, Richard Mains, Jr., Mayor George H. Lovett, Tim Evans, and Patrick Hale.

Others in attendance: City Manager David A. Collinsworth, Assistant City Manager Bradley C. Vath, Law Director Joseph P. Moore, Police Chief Tom Davidson, Utilities Director Mo Eichman, Fire Chief Steve Kessler, Dayton Daily News reporter Nancy Bowman, Tipp Herald reporter Mike Kelly, and Acting Clerk of Council Cathy Ross.

Citizens signing the register included: Mike Dever, Matt DeNuzzo, Jim Hartland, Roy and Marilyn Roller, Rick Baker, Suzanne McGillvary, Elden Eidemiller, Mr. and Mrs. F. McGillvary, Daniel Quinn, David Dodd, Casey Layer, Matt Dansereau, Lisa Toyohara, John Canzonere, L. E. Miller, E. Irene Miller, Karen Fuler, Jerome Faler, Mark Lee, Elizabeth Okrutny, Teri Okrutny, Jeff Okrutny, Andy Dakin, Chris Dakin, Morgan Fiely, Paul Ernst, David Burgi, Gary Weaks, Joe Bagi, Eric Eidemiller, Carl Owen, Gearied F. Hitchcock, Jr., Dan Dodds, Jake Roberts, Amanda McGraw, Scott Wright, Danielle Brush, Paul Lee, Ruth Safreed, and Andrea Ratermann.

Invocation & Pledge

Pastor Jim Hartland, Tipp United Methodist Church, delivered the invocation. President Beagle led the Pledge of Allegiance.

Appoint Acting Clerk of Council

Mayor Lovett moved to appoint Cathy Ross as Acting Clerk of Council, seconded by Mr. Evans and unanimously approved.

Approve Agenda

Mr. Hale moved to approve the agenda, seconded by Mayor Lovett, and unanimously approved.

Council Minutes

Mrs. Blakey moved adopt the minutes of the May 7, 2007 Pre-Meeting Study Session, seconded by Mr. Ochs. The motion carried with a vote of 7-0.

President Beagle moved adopt the minutes of the May 7, 2007 City Council meeting, seconded by Mayor Lovett. The motion carried with a vote of 7-0.

Mr. Mains moved adopt the minutes of the May 7, 2007 Post-Meeting Study Session, seconded by Mr. Hale. The motion carried with a vote of 7-0.

Proclamations E. Okrutny

Mayor Lovett proclaimed June 12, 2007 as Elizabeth Okrutny Day in Tipp City. Councilmembers congratulated Ms. Okrutny.

Ordinances – Second Reading & Public Hearing

The following ordinance was presented to Council for a second reading and public hearing.

Eidemiller Rezoning

An ordinance to amend the zoning code and the map attached thereto by changing the zoning of +/- 75.565 acres located on part of Inlot #2392, from I-1/POI, Light Industrial District, to +/- 22.906 acres PC, Planned Commercial District and +/- 52.659 acres PRD, Planned Residential District, within the City of Tipp City.

Clerk of Council Summary: The Planning Board reviewed and recommended a zoning designation change from Light Industrial to Planned Residential District and Planned Commercial District for the Eidemiller property located at 610 W. Kessler-Cowlesville Road.

City Manager Report: At the request of the applicant, Mr. Collinsworth reviewed with Council some edits that were made to the ordinance (green copy).

President Beagle opened the public hearing. Law Director Joseph P. Moore swore in those wishing to testify during the public hearing.

David Burig stated that an age restriction would put a burden on this project. While the planned development was a luxury condominium community targeted to an active adult market, young people starting careers may wish to move in, but not with a stigma to age restrictions.

This development would contain luxury condominiums and single family detached housing. The developer has not committed to a design for the planned residential portion of the land.

Mr. Hale stated that the developer implied that their intent was to market the development to older adults.

Mr. Burig stated that the amenities would naturally draw the older adults. This project was similar to those in Columbus and the residential mix they expect was 80% active adults and 20% young professionals.

President Beagle asked what would keep single parents out of the development. Mr. Burig stated they wouldn't have yards and the amenities were not geared toward children.

Mrs. Blakey asked the developer to further expand upon the amenities of the development. He said walking paths would be the number one amenity. The development would also include a community center with a 4,000 square foot recreation area and a swimming pool. There would also be open space and a community gardening area.

Gary Weeks, on behalf of applicant, stated that Section 5 of the applicant's proposed ordinance read "no part of PRD shall be developed". If the amendment is not favorable to Council, Mr. Weeks would ask Mayor Lovett to withdraw the "green" ordinance from consideration.

Mayor Lovett stated he was not going to sponsor the applicant's proposed ordinance. He stated that he was not thrilled about idea of locking up land for 3 years. The Planning Board minutes of March 13, 2007 show that the applicant requested retirement housing. Council has

expressed the need for this type of retirement housing and now the applicant appears to be changing the plans. He noted that an empty nester development was discussed in the Study Session held on May 7th. Now the developer is saying they don't want to do that. He stated that he was confused as to what the developer planned to build on this parcel.

Mr. Burig stated that they never intended this to be called a retirement community. The intent has always been to target an active adult market.

Mr. Weaks stated that the PRD zoning tells the developer what to do with property before it is zoned. Once it is rezoned with restrictions the developer has no alternative but to request future rezoning. Mayor Lovett stated that no one had been disingenuous. Mr. Weaks stated the more restrictions placed on the developer, the greater the risk. If the applicant's amended ordinance was not approved then the applicant wanted to withdraw the rezoning request and go back to the Planning Board.

Mr. Evans stated that in the past City Council has placed moratoriums on developments but they didn't set precedence. He stated that Council didn't know what the future held for development in Tipp City. This development was brought forward primarily as an empty nester development. Statistics show sell-outs at Springmead and Council believes there is a need for this type of development. He recommended the applicant go back to the Planning Board. He was concerned with the City being left with something they did not intend to have.

Mr. Burig stated that they wanted the PRD classification. The Planning Board would tell us what we can and can't do. City Council is telling us what to do with the property before it is rezoned. If the applicant's amended ordinance was not acceptable, he asked that the ordinance be removed from the agenda.

The developer asked if Council was open to zoning a portion of the property Office Service, next to the residential zoning and have all 75 acres developed as one project. Mrs. Blakey talked about gas stations, restaurants, and bars opening up and questioned if Kessler-Cowlesville was intended to be used for this type of use under the PC zoning code.

The Planning Board stated that a planned commercial development has to be done all at once and the developer would have to lay out all 75 acres and provide a plan for overall project. Commercially zoned property has a lot of leeway and once a zoning designation is granted Council cannot stop anything in planned district.

Elden Eidemiller stated that he has not been able to create a plan for this parcel. He felt like the zoning process was going around in circles.

David Dodd, part owner of a 44 acre farm at Evanston Road and County Road 25A, stated that when he purchased land it was under a moratorium and they had to wait 18 months before development could begin. He sent a letter to Council asking that the moratorium be

dropped and proposed an assisted living/independent living facility with 78 units of quad/double houses. Mr. Dodd stated that he would like to see the zoning in place for the property in question, but requested that a 36 month moratorium be implemented as to not over saturate the housing market.

John Canzonere, 725 Pinehurst, stated that he lived within 200 feet of property in question and feels that a moratorium should be invoked here to insure success of the Fieldstone property.

Paul Ernst, 700 Pinehurst, stated that he attended the Planning Board meeting in March. He questioned whether the Fire Chief attended meetings regarding safety issues. Chief Kessler was in attendance at the City Council meeting and stated he did attend the Planning Board meeting. Mr. Ernst asked whether there would be lighting on the property at night and why the City needed a planned community on west side.

President Beagle asked if there were any additional public comments. There being none, Mrs. Blakey moved, seconded by Mayor Lovett, and unanimously approved, the public hearing was closed.

Mayor Lovett removed his sponsorship of this item and recommended that the applicant go back to Planning Board for further discussions.

Mr. Mains asked what would happen if no one sponsored the ordinance. Mr. Moore replied that they would have to go back to the Planning Board if they wished to continue with the development.

Mr. Ochs asked about sponsoring one of the other ordinances presented.

Mr. Beagle explained to the public that staff presented Council with two ordinances. One was more restrictive (green ordinance) and the alternate (blue ordinance) did not include age restriction requirements.

Law Director Moore advised Council not to vote on this issue tonight and recommended Council meet with the applicants and come up with a new ordinance.

Mr. Ochs asked why the request would have to go back to the Planning Board if Council was just approving a zoning request. Mr. Collinsworth stated that City Council counts on the Planning Board's recommendations before voting on rezoning.

Mr. Ochs moved to sponsor the blue ordinance. ~~The ordinance died for lack of a second.~~ *And later removed his sponsorship after consulting with the Law Director who explained that sponsorship of the blue ordinance would have to have a new first reading. The builder withdrew his proposal. Corrected 6-14-07.*

The following resolutions were presented to City Council for adoption.

**Resolution
One Reading
Required**

Resolution 15-07
LiveScan Fingerprint
System

Resolution 15-07: A resolution authorizing the City Manager to purchase a LiveScan Fingerprint and Mug Shot system from Cogent Systems, Inc. at a cost of \$42,000.00.

Clerk of Council Summary: This item was included in the five-year Capital Improvement Plan and would provide for the live scanning, recording and electronic transmission of fingerprints for the Police Department. This equipment is available under the State of Ohio's Cooperative Purchasing Program.

City Manager Report: Mr. Collinsworth reported that this item was included in the CIP budget and would replace the fingerprinting system currently in place. This would provide electronic fingerprinting and mug shots and was discussed in the pre-meeting study session. \$42,000 was budgeted for this purchase.

There being no further discussion, Mrs. Blakey sponsored this resolution and moved for its adoption, seconded by Mr. Ochs. The motion carried with a vote of 7-0. Resolution 15-07 was declared passed and President Beagle affixed his signature in witness thereto.

Resolution 16-07
Miami County Hazmat
Agreement

Resolution Number 16-07: A resolution approving the City's financial participation in the Miami County Hazardous Materials (Haz-Mat) program under the auspices of the Miami County Emergency Management Agency (EMA) and authorizing the City Manager to execute a Memorandum of Understanding with the Miami County Commission and the cities of Piqua and Troy governing such participation.

Clerk of Council Summary: This provides for a four-way agreement between the cities of Tipp, Troy & Piqua and Miami County to fund a part-time Hazardous Materials Coordinator position.

City Manager Report: Upon adoption, Tipp City will jointly fund a part-time Hazardous Materials Coordinator position.

Mrs. Blakey asked if the Haz Mat program serviced other communities in Miami County. Mr. Collinsworth stated that it did, but only these 4 groups were asked to provide funding.

Mr. Hale sponsored this resolution and moved for its adoption, seconded by Mr. Mains. The motion carried with a vote of 7-0. Resolution 16-07 was declared passed and President Beagle affixed his signature in witness thereto.

Resolution 17-07
George W. Bush
Parkway

Resolution Number 17-07: A resolution designating Donn Davis Way, extending from W. Kessler-Cowlesville Road to S. County Rd. 25A in the City of Tipp City, for commemorative purposes, as George W. Bush Parkway in honor of President George W. Bush.

Clerk of Council Summary: This was discussed at Council's May 7th meeting and would provide an honorary designation of a portion of Donn Davis Way.

City Manager Report: Mr. Collinsworth stated that an honorary designation of a portion of Donn Davis Way would be placed commemorating George W. Bush's recent visit to Tipp City.

Mrs. Blakey stated that she had received phone calls, emails, and participated in conversations with various residents who opposed the renaming of a portion of Donn Davis Way. She would, therefore, be opposing this resolution.

Mayor Lovett stated that Jim Davis, son of Donn Davis, spoke with him at Rotary and stated that his father would have been in support of the renaming and he is as well.

Mr. Evans sponsored this resolution and moved for its adoption, seconded by Mr. Ochs. The motion carried with a vote of 6-1. Mrs. Blakey cast the dissenting vote. Resolution 17-07 was declared passed and President Beagle affixed his signature in witness thereto.

Motions

Park Board
Resignation

On a motion by President Beagle, seconded by Mr. Evans, and unanimously approved, Council accepted the resignation of Jackie Wahl from the Parks Advisory Board with a vote of 7-0. President Beagle stated that he was sorry to see Mrs. Wahl leave and thanked her for her service. He added that you couldn't live in Tipp City for two weeks without coming in contact with something in the community that Mrs. Wahl had touched.

Set Public Hearing
Legacy Overlay
District

On a motion by Mr. Ochs, seconded by Mr. Hale, Council set the date of the public hearing for the Legacy Overlay District Rezoning as June 18th. The motion carried with a vote of 7-0.

Miscellaneous

BZA Appeal 03-07
Menards

The next item on the agenda was a public hearing to consider an appeal of two BZA decisions for Case 03-07.

President Beagle opened the public hearing and instructed the Law Director to swear in those wishing to testify during the hearing.

Mark Lee, representing Menards, noted that the BZA was not permitted to grant the two variances before City Council. Mr. Lee stated the signs being requested were the standard signs used at all Menards locations. One sign would indicate the location of the lumber yard, which is also where customers will pick up large items purchased in the store. The second sign was an identification sign that would be attached to the building.

Mrs. Blakey asked if applicant was aware that identification sign was more than 600% larger than the code allowed. Mr. Lee stated he was aware of the size restrictions, but the sign being requested was the same standard sign used on the buildings at the other stores.

Mr. Moore stated that if Council considered granting these requests, a resolution would need to be prepared for both variances.

On a motion by Mr. Ochs, seconded by President Beagle, the public hearing was closed.

Mrs. Blakey made a motion to uphold the BZA's denial of this case. Motion died due to lack of second.

On a motion by Mr. Evans, seconded by Mr. Mains, Council approved the 567 square foot Menards wall mounted logo sign with swoosh. The motion was approved by a vote of 6-1, Mrs. Blakey casting the opposing vote.

On a motion by Mr. Evans, seconded by Mr. Hale, Council approved the 24 square foot on-site directional lumber yard sign by a vote of 6-1. Mrs. Blakey cast the dissenting vote.

Citizen Comments
McGillvary

Mrs. McGillvary, 616 W. Main Street, referenced the curb lawn construction for Phase II of the Main Street Streetscape Project. She asked when citizens would know which items will be in front of their property. Mr. Collinsworth stated he doesn't believe bushes will be in front of residences. The plan will also identify where light fixtures and fire hydrants will be placed.

Mrs. McGillvary asked who paid for the electric from lamps. Mr. Collinsworth stated the City would be responsible for the electric charges.

Mrs. McGillvary asked what types of trees would be placed in the curb lawn. She was concerned about the roots and damages to curbs and sidewalks that residents would become responsible for repairing later. Mr. Collinsworth said that the trees would be placed in accordance with the list created by the City's Tree Ordinance. They would most likely be ornamental in nature.

Mrs. McGillvary asked if there would be an adjustment made to property values and taxes since it was determined property values were lower. Mr. Moore stated that changes to taxes would have to speak to the Board of Tax Appeals, the Auditor, and/or Treasurer of County he wasn't sure which.

Mrs. McGillvary noted that with the removal of trees, there were a lot of dead birds on the sidewalks and requested that someone from the City clean them up.

Dever

Mike Dever, 3690 Teakwood Road, commended Council on their parliamentary procedure during this meeting. He stated that since they honored George W. Bush's visit with a street name, he felt they should consider naming a street after William Henry Harrison whose famous quote helped name our city "Tippecanoe and Tyler Too".

Dodds

Dan Dodds, 698 Burnside Drive, questioned whether the barricades were going to be moved from in front of his property. He stated they were a safety hazard. He noted that he was hosting a graduation party this weekend and the barricades would be very inconvenient. Mr. Collinsworth stated that he did ask the Township Trustees to allow the City to move the barricades to the Township side of the road and he imagined they would be potentially discussing this at their meeting tonight. Mayor Lovett requested that Mr. Collinsworth advise Council of the Trustee's decision via email. Mr. Collinsworth was

**Councilmember
Comments**

also requested to have the barricades moved for Mr. Dodd's graduation party if only temporarily.

Mrs. Blakey commended the parks crews for the excellent condition of the baseball diamonds at Kyle Park. She requested that Exit 69 have some type of pedestrian crossing in place on or over the bridge for County Road 25A.

Mr. Ochs questioned how we report power outages in Tipp City. Mr. Collinsworth stated that outages during the day could be reported to Utilities, evenings to the Police Department, and after midnight calls are answered by the 911 center.

Mr. Evans stated that the Downtown Merchant Association of Tipp City approved their Bylaws this past week. Due to the creation of the bylaws it would be appropriate for the City to go through an official appointment process. Mr. Collinsworth stated he would add to the list of appointments for next year. Mr. Evans thanked Greg Enslen for putting the bylaws together. Mr. Evans announced that the Chamber of Commerce monthly meeting would be held on Saturday at 8 a.m. at Chin's.

Mayor Lovett reported that he attended the OML Legislative Day. He spent time with Representative Diana Fessler regarding HB117 Cable Franchise. House Bill 117 threatens to take away cable access channels and cable companies could raise rates at will. Representative Fessler said she would continue to monitor the bill. He noted that the event was very informative and educational.

President Beagle congratulated Mr. Evans and Evans Title Agency on receiving the Eclipse Integrity Award. He thanked Mr. Vath and Mr. Collinsworth for presenting the Economic Development Forum on May 11th at the Zion Lutheran Church.

**City Manager
Comments**

Mr. Collinsworth stated he just signed the demolition permits for properties at 17 North Fourth Street and 18 North Fourth Street, which was part of the Zion Lutheran Church project.

Mr. Collinsworth asked Mr. Eichman to provide Council with an update on the NAWA plant. Mr. Eichman stated that he was pleased to announce that for the first time Tipp City was providing softened water to the entire City. He stated that they would continue to take the softness down slowly. The water was originally 22 grains/gallon, and is now at 11.7 grains/gallon, with a goal of 8.2 grains/gallon. Springfield and Dayton water is at 8.2 grains per gallon. Individual residents will decide if this is soft enough to not require a softener. Mr. Eichman added that most softener companies take it to zero hardness. Mr. Eichman warned that there may be some interruptions as they are still tweaking the process, but he hopes to have Vandalia up and running by the first week in June. He thanked building contractors and operators for the good work.

Study Session

Mr. Collinsworth opened the Study Session at 9:55 p.m. on this date.

Roll Call

Council Members in attendance included: President William D. Beagle, Vickie K. Blakey, Rick Mains, Jr., Tim Evans, Mayor George H. Lovett, Donald H. Ochs, and Patrick Hale.

Others in attendance included: Law Director Joe Moore, Fire Chief Steve Kessler, Police Chief Tom Davidson, Utilities Director M.J. Eichman, Assistant City Manager Bradley C. Vath, Dayton Daily News reporter Nancy Bowman, and Acting Clerk of Council Cathy Ross.

Discussion**Barking Dog Ordinance**

Mr. Collinsworth reviewed the attached PowerPoint presentation regarding the City's current and proposed barking dog ordinance. Chief Davidson stated that the proposed language was the same in place for disorderly conduct. Council discussed the use of "another person" and whether one person complaining should be enough cause for the Police to charge the person. Chief Davidson explained that currently officers go to the area and listen and look to see if there is something causing the dog to bark. They will make a judgment call at that time. Chief Davidson stated that only 9-10 tickets are issued each year.

Mr. Collinsworth asked if Council wished to put this legislation through regularly or by emergency. Council stated that with the summer months approaching, it should be put on as an emergency at the next meeting.

Utility Service Extensions

Mr. Collinsworth reviewed the information provided in the attached PowerPoint presentation.

Council discussed whether or not to require annexation and decided to require it as per current policy. Council was also supportive of giving people 5 years to install curb and gutter so they aren't hit with expense of sewer installation and then curb and gutter right away.

Executive Session**Compensation of Public Employees**

Mrs. Blakey moved to go into Executive Session to discuss the compensation of public employees. Motion was seconded by Mr. Ochs and unanimously approved. Council adjourned to executive session at 10:30 p.m.

Adjournment

Mrs. Blakey moved to adjourn Executive Session, seconded by Pat Hale. Council reconvened in regular session. There being no further business, it was moved by Mr. Ochs, seconded by Mr. Mains, that the meeting be adjourned. The motion unanimously carried. President Beagle declared the meeting adjourned at 10:45 p.m.

William D. Beagle, President of Council

Attest: _____
Cathy Ross, Acting Clerk of Council